

REMARKS      **BEST AVAILABLE COPY**

This Reply is being filed along with a Request for Continued Examination (RCE). The continued examination of claims 1, 3-7, 11-16, 18, 23, 24, 28, and consideration of new claims 31-35 are respectfully requested. Claims 2, 8-10, 17, 19-22, 25-27, and 29-30 are withdrawn from consideration, but would be properly rejoined with the allowance of respective generic claims. Additionally, new claims 31-35 are readable on the examined species of Fig. 7. Furthermore, claims 31-33 and 35 are readable on at least the species of Figs. 2, 3, 4, 5, and 6.

In the last Office Action claims 1, 3, 7, and 11 were rejected under 35 U.S.C. sec. 102(b) applying U.S. Pat. No. 5,408,562 (the '562 patent). The '562 patent discloses a submarine fiber optic cable for marine applications. See the Abstract and the Figures of the '562 patent. For a patent to be applicable under sec. 102(b), the patent must, *inter alia*, disclose each and every feature of the claimed invention.

The amendment of claim 1 is not an admission that the '562 patent or any other art of record discloses, teaches, or otherwise suggests the features of the claim. The '562 patent discloses a slotted rod having peripheral helical slots. See the Abstract and the Figures of the '562 patent. On the other hand, claim 1 recites, *inter alia*, a duct tube being monolithic and having an inner surface defining the central passage, the central passage being sized for installing and removing the transmission cable and at least one passageway disposed within a duct tube wall. For at least these reasons, claims 1, 3, 7, and 11 are believed patentable over the '562 patent.

Claims 1, 3, 7, and 11 were rejected under 35 U.S.C. sec. 102(b) applying U.S. Pat. No. 4,389,088 (the '088

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patent). The '088 patent discloses an underwater fiber optic cable having a central filament (slotted rod) 1. See the Abstract of the '480 patent. For a patent to be applicable under sec. 102(b), the patent must, *inter alia*, disclose each and every feature of the claimed invention.

Likewise, the '088 patent requires a slotted rod 1 having helical grooves provided at the peripheral surface. See the '088 patent at Col. 2, ll. 4-12. For at least the reasons stated above with respect to the '562 patent, the withdrawal of the sec. 102(b) rejection of claims 1, 3, 7, and 11 applying the '088 patent is warranted and respectfully requested.

Claims 1, 3, 7, and 11 were rejected under 35 U.S.C. sec. 102(b) applying U.S. Pat. No. 5,848,212 (the '212 patent). Again, the '212 patent discloses an optical fiber cable having a (slotted) rod 12 having grooves 14 in the outer peripheral surface. See the Abstract of the '212 patent and Col. 3, ll. 25-36. For at least the reasons stated above, the withdrawal of the sec. 102(b) rejection of claim 1, 3, 7, and 11 applying the '212 patent is warranted and respectfully requested.

Claims 4-6, 12-16, 18, 23, 24, and 28 were rejected under 35 U.S.C. sec. 103(a) applying the '212 patent in view of U.S. Pat. No. 6,195,486 ('486). For patents to be applicable under sec. 103(a), the combination of teachings must, *inter alia*, expressly or inherently, teach, disclose, or suggest each and every feature of the claimed invention. Additionally, motivation and suggestion to combine the patents must be present.

The '212 patent fails to disclose, teach, or otherwise suggest each and every feature of amended claim 1. For at least this reason, the withdrawal of the sec. 103(a) rejection of claims 4-6 is warranted and respectfully

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requested.

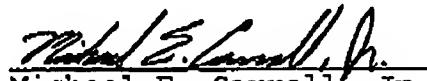
Regarding claims 12-16, 18, 23, 24, and 28, neither the '212 patent, nor the '486 patent, alone or in combination disclose, teach, or otherwise suggest each and every feature of independent claims 12 and 24. Moreover, the amendment of claims 12 and 24 is not an admission that the '212 or '486 patents or any other art of record discloses, teaches, or otherwise suggests the features of the claims. The withdrawal of the sec. 103(a) rejection of claims 12-16, 18, 23, 24 and 28 is warranted and respectfully requested.

Ninety Dollars (\$90.00) is believed due in connection with this Reply for 5 new defendant claims in excess of twenty. If any fees are due in connection with this Reply, please charge any other fees, or credit any overpayment, to Deposit Account Number 19-2167.

Allowance of all pending claims is believed to be warranted and is respectfully requested.

The Primary Examiner is welcomed to telephone the undersigned to discuss the merits of this patent application.

Respectfully submitted,

  
Michael E. Carroll, Jr.  
Patent Attorney  
Reg. No. 46,602  
P.O. Box 489  
Hickory, N. C. 28603  
Telephone: 828/901-6725

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